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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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13 LONNIE LEE POSLOF, Sr.,

14 Plaintiff,

15 v.

16 PEOPLE OF THE STATE OF
17 CALIFORNIA, et al.,

18 Defendants.
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Case No. ED CV 23-2574 DOC (MRW)

ORDER DISMISSING ACTION

21 The Court dismisses this action without prejudice due to the failure
22 of a pro se litigant to amend his complaint or respond to court orders.

23 * * *

24 1. This is a civil action involving a self-represented prisoner.
25 Plaintiff Poslof is an inmate at the state prison facility in Corcoran,
26 California.¹ He filed this civil action alleging various housing and medical

27 ¹ The Corcoran prison is in Kings County, California, which is within
28 the judicial district of the federal court in the Eastern District of California. As

1 claims against the prison and its senior staff. He also attempted to assert
2 claims against individuals involved in his original criminal trial several
3 decades ago. (Docket # 1.)

4 2. Magistrate Judge Wilner screened the pleading pursuant to
5 28 U.S.C. § 1915A. The magistrate judge dismissed the original complaint
6 with leave to amend for a variety of reasons. (Docket # 7.) Judge Wilner
7 noted that the complaint named immune parties, improperly sought
8 habeas-type relief in a civil rights action, and was broadly unintelligible.
9 (Id.)

10 3. Plaintiff subsequently filed his First Amended Complaint.
11 (Docket # 9.) In March 2024, Judge Wilner again screened the pleading
12 and dismissed it with leave to amend. (Docket # 11.) The magistrate judge
13 concluded that the amended complaint contained a “generalized statement
14 about what Plaintiff describes as deliberately indifferent prison conditions”
15 regarding his health care. (Id. at 1.) However, the complaint identified no
16 individual tortfeasors, gave no details about allegedly unconstitutional
17 treatment, and demanded release from custody or a prison transfer as a
18 remedy. Moreover, the amended complaint again named immune parties
19 (the state prison, its medical board, and a warden in his official capacity) as
20 defendants. (Id. at 1-2.) Judge Wilner again explained the legal defects
21 with the complaint by reference to federal rules and caselaw.

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24 with a previous civil action that the Court dismissed for failure to prosecute (ED
25 CV 22-1105 DOC (MRW) (C.D. Cal.), Plaintiff apparently filed this action in the
26 Central District of California because his various habeas corpus petitions have
been adjudicated in this Court. See Case Nos. ED CV 06-1418 AG (MRW), ED
CV 15-2526 AG (MRW), and ED CV 19-1422 DOC (MRW) (C.D. Cal.).

27 In light of Plaintiff’s failure to properly litigate this matter, it is
28 again appropriate to dismiss this civil action without prejudice than to transfer
it to the Eastern District for further proceedings.

1 of cases on their merits and the availability of less drastic alternatives in
2 its evaluation. Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988).

3 9. In the present action, the Court concludes that dismissal of the
4 action is appropriate. Plaintiff filed two iterations of a civil complaint that
5 failed to comply with court rules. Plaintiff named immune parties, sought
6 unavailable relief, and failed to articulate intelligible or litigable claims.
7 Additionally, Plaintiff failed to amend his complaint after receiving an
8 explanation of its problems from the magistrate judge. Plaintiff's inability
9 to file a valid complaint or follow the magistrate judge's orders
10 demonstrates that he has no interest in advancing the action here.

11 10. By contrast, the Court, the defense, and the public have a
12 strong interest in terminating this action. This is particularly true given
13 that Plaintiff failed to respond to court orders, and has previously
14 abandoned a similar lawsuit in this district. No sanction short of dismissal
15 will be effective in moving this case forward. Carey, 856 F.2d at 1440. The
16 Court concludes that dismissal is appropriate under Rule 41(b). Applied
17 Underwriters, 913 F.3d at 892.

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1 11. Dismissal under Rule 41(b) ordinarily “operates as an
2 adjudication on the merits” of a claim unless “the dismissal order states
3 otherwise.” Given that Plaintiff likely filed the action in the wrong district
4 and alleges significant personal difficulties, though, the Court orders that
5 the present action be DISMISSED without prejudice.

6 IT IS SO ORDERED.

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9 Dated: May 21, 2024


HON. DAVID O. CARTER
UNITED STATES DISTRICT JUDGE

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12 Presented by:

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HON. MICHAEL R. WILNER
16 UNITED STATES MAGISTRATE JUDGE
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